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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1947

No. ————

MIAMI TRANSPORTATION COMPANY, INC., OF INDIANA,

Appellant,

v.

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION,

Appellee.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF INDIANA

BRIEF OF APPELLANT, MIAMI TRANSPORTATION COMPANY, INC., OF INDIANA, IN OPPOSITION TO MOTION TO AFFIRM OF APPELLEES

I. STATEMENT OF THE CASE

This is an appeal from the final decree of a specially constituted three-judge court sitting as the United States District Court for the Southern District of Indiana. The court below dismissed appellant's complaint to set aside an order of the Interstate Commerce Commission denying to appellant, as a partial successor in interest to the original applicant, certain operating rights as a common carrier of commodities generally by motor vehicle in interstate commerce. The original application before the Com-

mission was under the provisions of the "grandfather" clause of the Motor Carrier Act of 1935, now Part II of the Interstate Commerce Act. (49 U. S. C. 306 (a).)

The decision of the court below was by a divided vote, District Judge Lindley filing a separate opinion in which he dissented, in part, from the decree entered. The dissent of Judge Lindley supports the position of appellant on the major questions raised by this appeal.

The appellees have filed a motion to affirm, which they state therein is submitted "pursuant to Rule 12, paragraph 3 of the Rules of the Supreme Court of the United States." This rule, as we read it, gives appellees the right to file such a motion in connection with a "statement disclosing any matter or ground making against the jurisdiction of this court asserted by appellant." We find nothing in said motion questioning the jurisdiction of this Court as asserted by appellant. Rather, the statement accompanying said motion appears directed to the proposition that "this appeal presents no substantial question." (Appellees motion, page 8.) This would seem to place the statement and motion in that class described by Rule 12, paragraph 1, relating to an appeal from a state court which, of course, is not applicable to the case at bar.

However, inasmuch as the statement and motion have been filed, we are submitting this brief pursuant to the provisions of Rule 7, paragraph 3.

It may be that the questions involved herein do not appear substantial to the Interstate Commerce Commission or to The United States of America, as represented by the Department of Justice. But the questions are very substantial to this appellant, involving as they do its very life or death as an operating motor carrier. The questions were substantial enough to win the support of District

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Judge Lindley, one of the three judges making up the court below, so that as to the real questions involved herein the appellees prevailed in the District court by a two-to-one vote. We hope to show to this Court, by this brief, that the questions involved herein are substantial, so this case may be decided upon its merits after full briefing and argument.

II. THE PROCEEDINGS BEFORE THE INTERSTATE COMMERCE COMMISSION

In order properly to understand the issues involved herein, in view of the statement and motion of appellees, we believe the proceedings before the Interstate Commerce Commission should be reviewed briefly.

The original applicant before the Interstate Commerce Commission was Lett & Company of Indiana, Incorporated, an Indiana corporation. This application was filed February 12, 1936, under the "grandfather" clause of the Act and applicant prayed the issuance of a certificate authorizing it to continue operations as a common carrier of commodities generally by motor vehicle, in interstate and foreign commerce, over the routes and in the territory where it was operating June 1, 1935 and continuously thereafter. Certain proceedings were had before the Commission and thereafter on September 23, 1940, in its docket number MC-22305, Lett & Company of Indiana, Incorporated, as reported at 26 MCC 159, the Commission entered an order granting, in part, and denying, in part, the original application.

Following this order Lett & Company of Indiana, Incorporated, filed a petition requesting reconsideration and further hearing solely as to the routes and territory denied in the order of September 23, 1940. On January 7, 1941,

the Commission granted said petition and reopened the case for further hearing *limited solely* to the routes and territory denied as a common carrier of commodities generally by the order of September 23, 1940, said routes and territory being set out with particularity in said order of January 7, 1941. Inasmuch as this order of January 7, 1941, becomes important, in view of certain erroneous allegations in the statement and motion of appellees, we are reproducing it in full in Appendix hereto.

Following said order reopening the case solely as to the routes and territory denied, hearings were held by the Commission as to these matters at Pittsburgh, Pennsylvania, on March 31, April 1, May 19 and 20, 1941, at which time Lett & Company of Indiana, Incorporated, submitted voluminous documentary evidence showing its operations over the routes and in the territory involved as of June 1, 1935, and continuously thereafter, said documentary evidence consisting of more than 166,000 freight bills, delivery receipts, bills of lading, and manifests, being original records of applicant which were brought to the hearing room. The applicant also prepared and provided printed and bound exhibits, in several hundred pages, listing and digesting said documentary evidence by routes and territory for the convenience of the Commission. This documentary evidence was supplemented by the testimony of officers and employees of the applicant, including testimony as to the actual driving of applicant's trucks transporting shipments over the routes and in the territory, on before and continuously after June 1, 1935. There was also submitted the testimony of certain shippers, many of them being nationally known and whose integrity and veracity stands unquestioned in this record, who had used applicant's service in the transportation of their commodities over the routes and in the territory involved in the

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reopened proceedings on, before and continuously after June 1, 1935. THERE WAS NO EVIDENCE CONTRADICTING THIS OVERWHELMING SHOWING MADE BY APPLICANT.

While this reopened proceedings was pending before the Commission, Lett & Company of Indiana, Incorporated, worn out financially by the long and costly proceedings before the Commission in its attempt to obtain what it considered to be its lawful operating rights, went into bankruptcy and was operated by a trustee pursuant to orders of the United States District Court for the Southern District of Ohio, Western Division. Said trustee in bankruptcy, with the approval of said court and of the Interstate Commerce Commission sold a portion of the operating rights of Lett & Company of Indiana, Incorporated, which had been permanently granted in the order of September 23, 1940, to Consolidated Forwarding Company, Inc., and to Kenneth G. Foster, as reported at 38 MCC 125. Said trustee, also with the necessary approval of the court and the Commission, sold a portion of the operating rights of Lett & Company of Indiana, Incorporated, permanently granted in the order of September 23, 1940, to appellant and also sold to appellant the claimed operating rights which had been the subject of the reopened proceedings heard at Pittsburgh and then pending before the Commission. 38 MCC 805.

On May 22, 1943, the Commission made an order as a result of the Pittsburgh hearings and denied appellant all of the routes and territory involved in the reopened proceedings. The order also took away from appellant a route between Cincinnati, Ohio, and Charleston, West Virginia, which was among those permanently granted in the order of September 23, 1940, and which was not even mentioned in the Pittsburgh hearings, because an affiliated

corporation of appellant held partially similar authority between these points. This latter matter was involved in the proceedings in the court below, but we assigned no error in connection therewith in this Court not because of any lack of faith in our contention, but because we did not deem the matter of sufficient importance to call to the attention of this Court. In our brief in the court below we indicated that this suit would never have been filed had the action of the Commission in reference to the Cincinnati-Charlestown situation been the only error in the order of the Commission. We mention this matter here now for two reasons. First, because appellees have seen fit to mention it in a foot-note at page 3 of their statement. Second, because it is necessary to refute an erroneous assertion contained in appellees' statement, which will be done elsewhere in this brief.

Following the order of May 22, 1943, appellant petitioned the Commission for reconsideration on the existing record, pointing out that the uncontroverted evidence before it had been disregarded. Instead the Commission ordered another hearing at Indianapolis, Indiana, which was not requested by appellant, and when the Commission was fully advised that all the available evidence was already before it.

The further hearing was held and appellant appeared and advised the Commission (of facts which it already knew) that the original applicant had been in bankruptcy; that appellant had acquired certain of the permanent and claimed operating rights of Lett & Company of Indiana, Incorporated, from the trustee with the approval of the court and the Commission; that all of the available evidence relating to operations of the original applicant in the reopened proceedings had been submitted at the Pittsburgh hearings; that the principal operating officer of the

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original applicant was in the South Pacific with the U. S. Marines, and that appellant desired the Commission to review the record made in the Pittsburgh hearings. In addition appellant submitted original shipping records and digests thereof showing continuous operation by appellant over the routes and in the territory involved in the reopened proceedings since the operating rights had been acquired by appellant.

On September 27, 1944, the Commission entered the order complained of in this case which also denied in toto the routes and territory involved in the reopened proceedings. A petition for reconsideration was denied by the Commission and the appellant, having exhausted its remedies before the Commission, on January 8, 1945, filed its complaint against the order of September 27, 1944, in the United States District Court for the Southern District of Indiana. The case was put on the trial calendar of the district court for March 1, 1945.

Before the trial and hearing could be held, the Commission entered an order *reopening the case for reconsideration on the existing record.* The case was taken off the trial calendar of the district court by a stipulation to this effect, but immediately after this was done the Commission rescinded its order reopening the case for reconsideration on the existing record and substituted, without the knowledge or consent of appellant, an order reopening the case solely to have another hearing on the question of the relationship of appellant and its affiliated corporation in connection with the Cincinnati-Charleston route only, a situation which had always been freely admitted and explained by appellant, the two corporations being necessary to comply with provisions of the Indiana law, not the Ohio law as erroneously stated in appellees' statement in the foot-note at page 2. This matter is not before this

Court since, as heretofore pointed out, we did not include it in our assignment of errors, but is mentioned here only to inform this Court as to what the Commission was doing during the period between March 1, 1945, when the case was taken off the trial docket of the district court by a stipulation of the parties, by reason of an order which was almost immediately repudiated by appellees, and the time the case actually was tried in 1947.

No affirmative action of any kind was taken by the Commission after March 1, 1945, although a hearing was held limited to the question of the relationship between appellant and its affiliate. A report was made, but no order. In an abundance of precaution, we asked for reconsideration of this report, so as certainly to exhaust our remedies before the Commission, and upon this being denied, the case was finally heard by the court below about two and one-half years after it was filed. This delay was not in the district court, but was occasioned by actions of the Interstate Commerce Commission. This resume of what occurred in connection with this case before the Interstate Commerce Commission may appear to be quite extended, but actually we have only referred to those matters necessary to reply to the appellees' statement. On brief, on the merits, if permitted to do so, we hope to be able to set out all that has occurred in connection with the proceedings before the Commission.

III. APPELLEES' STATEMENT THAT CERTAIN OPERATING AUTHORITY WAS GRANTED TO APPELLANT BY THE ORDER COMPLAINED OF IS ERRONEOUS.

In appellees' statement, at pages 1 and 2, we find the following:

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"The Commission's order, dated September 27, 1944, granted to appellant, as partial successor in interest to the original applicant, operating authority under the 'grandfather clause' of Section 206(a) of Part II of the Interstate Commerce Act as amended (49 U. S. C. 306(a)) as a common carrier of general commodities (with certain exceptions) over certain routes and of certain specified commodities from and to certain points; but denied authority to serve other territory included in the application."

In connection with the above quotation from appellees' statement we refer to a foot-note on the same page which reads in part, as follows:

"The authority granted is set forth in Appendix D to the Commission's report, reproduced in Appendix hereto."

Both what is said in the statement, as quoted, and in the foot-note, as quoted, is erroneous. We assume it is by inadvertence, by reason of the fact that counsel signing the statement of appellees have not to date, at least to our knowledge, been active in this case and may not be as well informed as those who have been associated with this proceeding since 1936. In any event, this assertion by appellees was one of those which caused us to review the proceedings before the Interstate Commerce Commission at some length so that the true facts may be known to this Court. The order complained of granted absolutely no authority to appellant. These statements of appellees appear to us to be intended to attempt to convince this Court that in the order complained of certain authority was granted and certain authority was denied and that this case may be described as involving an appeal from a partial grant and a partial denial of operating authority.

The order complained of, as we have attempted to make clear in this brief, in connection with our discussion of the proceedings before the Interstate Commerce Commission, denied in toto everything involved in the reopened proceedings and denied everything which was the subject of the Pittsburgh hearings. The authority set out in the

Appendix of appellees' brief, and which appellees claim in their statement was granted by the order complained of, was in fact permanently granted to Lett & Company of Indiana, Incorporated, in the order of September 23, 1940, and was in no way involved in the reopened proceedings as shown by the order of the Commission of January 7, 1941, reopening the case in court only, which is set out in the Appendix to this brief.

THIS CASE INVOLVES THE RECORD MADE AT THE PITTSBURGH HEARINGS AND NO AUTHORITY OF ANY KIND HAS BEEN GRANTED TO APPELLANT OR ANY ONE ELSE ON THE RECORD THERE MADE.

IV. APPELLEES' STATEMENT AS TO APPELLANT'S EXHIBITS IS ERRONEOUS

In this case the appellant has submitted exhibits, which were before the Interstate Commerce Commission, listing and digesting more than 116,000 shipments transported in interstate commerce by appellant's predecessor in interest Lett & Company of Indiana, Incorporated, over the routes and in the territory involved in the reopened proceedings and continuously thereafter until the operations were taken over by appellant. (There is no question here as to the appellant's continuation of the operations since it took over the operations with the approval of the court and the Commission.) There were other original records submitted which were not digested which bring the total to well over 166,000.

In appellees' statement, in connection with a discussion of this evidence and these exhibits, in a foot-note at page 7, we find the following statement:

> "Thus in the present case many of appellant's exhibits were merely lists of shipments claimed to have been made. Such lists, prepared by applicant for use at the hearing, have no greater probative value as proof that the shipments were in fact made than similar self-serving statements incorporated as allegations in the application itself would have. Only when and to

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the extent that they are supported by the underlying original documents of which they purport to be a convenient recapitulation do such lists have any evidentiary value."

There follows more which we will not quote verbatim to the effect that the Commission had tested these exhibits and found them wanting. Nothing could be farther from the fact.

All of the original records from which the exhibits were compiled for the convenience of the Commission, were brought to the hearing room in the Federal building in Pittsburgh. These records were available for inspection and were examined by some of the parties. *But as far as we know, and counsel preparing this brief was present and represented applicant at these hearings, no one from the Interstate Commerce Commission made even a perfunctory examination of them.* The records were brought to the hearing room in filing cabinets, carefully indexed in conformity with the exhibits, and were in charge of a staff of clerks familiar therewith and ready to assist anyone in examining the same. Yet, so far as we know, and we think we do know, no one from the Interstate Commerce Commission was interested enough to examine them. So we, at least, in view of our knowledge of the actual facts, do not attach much importance to this belated attack upon the authenticity of appellant's exhibits.

That there were a comparatively few, but not many, clerical errors in the exhibits prepared by Lett & Company of Indiana, Incorporated, and relied upon by appellant, has never been disputed. But these clerical errors are infinitesimal when compared with the number of shipments digested. That some errors should occur in a task of this magnitude certainly is not unusual, particularly when it is remembered that the case was reopened for the

purpose of taking this evidence on January 7, 1941, and the hearing ordered to begin on March 31, 1941, giving Lett & Company of Indiana, Incorporated, little enough time to complete compilations of this kind. Counsel preparing this brief knows that officials of the applicant and a staff of clerks worked night and day in the preparation of these exhibits after applicant was informed that it would be given an opportunity to present them.

V. APPELLEE'S STATEMENT THAT THIS CASE WAS REOPENED BY THE COMMISSION AFTER THE ORDER OF MAY 22, 1943, "SOLELY TO AFFORD APPLICANT AN OPPORTUNITY TO SUBMIT ADDITIONAL PROOF" IS ERRONEOUS.

In appellees' statement, at page 6, is the following:

> "Thereafter the proceedings were again reopened for further hearing 'solely to afford applicant an opportunity to submit additional proof so that a more accurate determination can be made of the claimed operations.' "

This statement refers to what transpired following the order of May 22, 1943, after the petition of appellant for reconsideration. We have heretofore pointed out that what appellant sought was reconsideration on the record made at Pittsburgh, because no other evidence was available as to the operations of Lett & Company of Indiana, Incorporated, a fact which we believe was well known to appellee, Interstate Commerce Commission. This further hearing was held, as we believe, to make some record as to the Cincinnati-Charleston route, upon which the Pittsburgh record was absolutely silent but which, although permanently granted to Lett & Company of Indiana, Incorporated, and sold to appellant, was taken away from appellant by the order of May 22, 1943, without any evidence on the subject, whatsoever. Our belief as to the purpose of

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this hearing is substantiated by what occurred after this suit was filed. As we have heretofore pointed out, after this case was set for trial in the district court, the Interstate Commerce Commission entered an order on its own motion, *reopening the case for reconsideration upon the existing record.* Immediately after the parties agreed to a stipulation taking the case off the trial calendar of the district court for this reason, the Interstate Commerce Commission rescinded its order reopening the case on the existing record and reopened it solely to investigate further, something which was never disputed, the relationship between appellant and its affiliated Ohio corporation.

What appellant and its predecessor in interest have been contending for since the Pittsburgh hearings is to have that record given proper or at least some consideration. As far as we know, and in this statement we are guided by our examination of the orders and opinions which have been entered by the Commission and the court below, Judge Lindley, as set out in his dissenting opinion, has made the first official analysis of the documentary and oral testimony submitted at the Pittsburgh hearing, since said hearing was held.

VI. APPELLEES' STATEMENT THAT THE ONLY QUESTION ARISING ON THIS APPEAL "RELATES TO THE WEIGHT OF THE EVIDENCE * * *" IS ERRONEOUS.

At page 2 of appellees' statement we find the following:

> "The only question arising on this appeal relates to the weight of the evidence."

This statement is erroneous. The position of appellees appears to be that even though there is absolutely no evidence contrary to that submitted by appellant or its predecessor in interest, that the Commission may totally disre-

gard this uncontradicted evidence under the guise of "weighing" the evidence. We have long disagreed with the position of the Interstate Commerce Commission, in this and many other cases, where it attempts to put itself in the role of a jury or judge of a trial court which has heard the evidence. As a matter of fact, in the case at bar, the members of the Interstate Commerce Commission who decided this case were as remote from the witnesses and their demeanor on the witness stand as Pittsburgh, Pennsylvania, is from Washington. It is true an examiner of the Commission did hear the case but we find nothing in his report concerning the demeanor of the witnesses on the stand.

But, however that may be, if the Commission, as it contends in this case, wants to place itself in the role of a jury or trial court in hearing this case, then it must be bound by all of the rules governing such jury or court and not just those which it pleases to adopt.

We are well aware of the fact that the rule as to trial courts and juries being the sole judge of the credibility of witnesses has been applied to the Commission. But this has been in cases where there was conflicting testimony. There is no question of credibility when the evidence and testimony is uncontroverted. Whenever, as in the case at bar, there is no evidence contradicting the documentary evidence and no testimony contradicting the testimony of responsible witnesses, then the Commission, as in the case of a trial court or jury, must follow that uncontradicted evidence.

This rule, as to a jury, was set out by this Court in Pennsylvania R. R. Co. v. Chamberlain, 288 U. S. 333, 53 S. Ct. 391, 77 L. Ed. 819. This rule was applied to an administrative body by the United States Circuit Court of

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Appeals for the Fifth Circuit, in National Labor Relations Board v. Goodyear Tire & Rubber Company, 129 Fed. (2d) 661, 665. In that case, decided in 1942, the court said:

> "But it remains true that the discharger knows the real cause of discharge, it is a fact to which he may swear. *If he says it was not union membership or activity, but something else which in fact existed as a ground, his oath can not be disregarded because there is a suspicion that he may be lying. There must be an impeachment of him, or substantial contradiction, or if the circumstances raise doubts, they must be inconsistent with positive sworn evidence on the exact point. This was squarely ruled as to a jury in Pennsylvania R. R. Co. v. Chamberlain, 288 U. S. 333, 53 S. Ct. 391, 77 L. Ed. 819, and the ruling is applicable to the board as a fact finder.*" (Emphasis supplied.)

The Decision of the Circuit Court of Appeals, in the case just cited, was taken to this Court on Certiorari, but the appeal was later dismissed. (See 317 U. S. 622; 319 U. S. 776). We do not believe that the Interstate Commerce Commission, in the case at bar can disregard the uncontroverted documentary evidence, the uncontroverted testimony of officers and employees of applicant, and the uncontroverted testimony of representatives of nationally known shippers, whose integrity and veracity is unquestioned in this record, merely because the Commission chooses to disbelieve such uncontradicted evidence and testimony. We believe that this situation presents a substantial question for decision by this Court, in spite of appellees' assertions that "this appeal presents no substantial question."

VII. REFERENCE TO ONE ASSIGNMENT OF ERROR BY APPELLANT

In connection with our contention that this appeal presents substantial questions for determination by this

Court, we respectfully call attention to our assignment of error numbered 2(e), in reference to the findings of the court below, where we alleged the court erred as follows:

"In determining and finding and stating, as its Special Finding of Fact No. X, and as the basis of its judgment herein, 'that there was substantial evidence to support the finding of the Commission that plaintiff was not entitled to a certificate of public convenience and necessity authorizing operation over the routes denied to it by the order complained of.'"

It is our contention, and we believe it presents a substantial question for determination by this Court, that there was no evidence and certainly not "substantial evidence," as found by the court below, to support the order of the Commission.

We challenge the appellees to show to this Court, on final hearing what the "substantial evidence" referred to by the court below consists of. We say there is none.

VIII. CONCLUSION

For the reasons set forth in this brief we respectfully request the Supreme Court of the United States to overrule the motion to affirm filed by appellees, to assume jurisdiction of this case so that it may be fully briefed and argued on its merits.

Respectfully submitted,

Howell Ellis,
520 Illinois Building,
Indianapolis, Indiana,
Counsel for Appellant.

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APPENDIX

ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 5, held at its office in Washington, D. C., on the 7th day of January, A.D., 1941.

No. MC 22305

LETT AND COMPANY OF INDIANA, INCORPORATED

COMMON CARRIER APPLICATION
INDIANAPOLIS, INDIANA

Upon consideration of the record in the above-entitled matter and of applicant's petition for further hearing; and good cause appearing:

It is ordered, That said matter be, and it is hereby, reopened for further hearing, at a time and place to be hereafter fixed, with respect to applicant's right to continue operation as a carrier by motor vehicle as follows:

General Commodities, over the regular routes set forth in appendix B to the report entered in said matter on September 23, 1940, serving all intermediate points on such routes.

General Commodities, over a regular route between Cincinnati, Ohio and Pittsburgh, Pa., over U. S. Highway 22, serving all intermediate points.

General Commodities, over a regular route between Cincinnati, Ohio and Pittsburgh, Pa., over Ohio Highway 4 from Cincinnati to Middletown, Ohio, thence Ohio Highway 73 to its junction with U. S. Highway 25, thence over U. S. Highway 25 to Dayton, Ohio, thence over Ohio Highway 4 to its junction with U. S. Highway 40, thence over U. S. Highway 40 to Colum-

bus, Ohio, thence over Ohio Highway 16 to Coshocton, Ohio, thence over U. S. Highway 36 to Cadiz, thence over U. S. Highway 22 to Pittsburgh, Pa.

General Commodities, between Cincinnati, Ohio, and Pittsburgh, Pa., over U. S. Highway 50 from Cincinnati to Clarksburg, W. Va., thence over U. S. Highway 19, to Morgantown, W. Va., thence over U. S. Highway 119 to Uniontown, Pa., thence over Pennsylvania Highway 51 to Pittsburgh, Pa., serving all intermediate points.

General Commodities, between Delaware, Ohio, and Portsmouth, Ohio, over U. S. Highway 23.

General Commodities, between Charleston and Weirton, W. Va., over U. S. Highway 21 from Charleston to Parkersburg, thence over West Virginia Highway 2 to Weirton.

General Commodities, between Indianapolis, Ind., and Cleveland, Ohio, over U. S. Highway 36 from Indianapolis to Pendleton, Ind., thence over Indiana Highway 9 to Anderson, thence over Indiana Highway 32 to Muncie, Ind., thence over Highway 3 to Hartford City, Ind., thence over Indiana Highway 22 to Jonesboro, Ind., thence over U. S. Highway 35 to its junction with Indiana Highway 9, thence over Indiana Highway 9 to Huntington, Ind., thence over U. S. Highway 24 to New Haven, Ind., thence over U. S. Highways 30 and 30S to Mansfield, Ohio, thence over U. S. Highway 42 to Cleveland, Ohio.

Off-route service to all points in the St. Louis, Mo., commercial zone; all points in the Cincinnati, Ohio, commercial zone; Speedway City and Fort Benjamin Harrison, Ind.; all points within 25 miles of Charleston, W. Va.; all points within 25 miles of Cleveland, Ohio; and all points within 35 miles of Pittsburgh, Pa.

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It is further ordered, That the order entered in said matter September 23, 1940, which as thereafter modified denies a part of the application, effective February 14, 1941, be, and it is hereby, vacated and set aside only to the extent that it denies authority to continue the above-described operations.

By the Commission, division 5.

W. P. BARTEL,
Secretary.

(SEAL)